

2. These statements are demonstrably false. Tornek respectfully requests permission to file the attached sur-reply and appendix showing that: (i) CLST publicly disclosed on numerous prior occasions as early as February 2007, including in the 2007 dissolution plan itself and in documents that Red Oak attached to its February 17, 2010 TRO application in the related state court litigation, that public trading of CLST stock would cease on the day CLST's dissolution became effective; and (ii) CLST issued a Form 8-K and press release on **March 5, 2010**, expressly stating that "it is expected that the trading of the company's stock on the Pink Sheets *will cease not later than the close of business on June 24, 2010.*"

3. Tornek believes a sur-reply is necessary to correct the record and avoid the injustice and prejudice that would result if the Court were to rule based on Red Oak's factual misrepresentations, as these misstatements serve as the factual predicate for Red Oak's argument that it did not know the basis for its claim for expedited relief until March 29. [*Id.* at 3-4]. Indeed, the Reply states that "[t]he **primary basis** for Red Oak's request for limited expedited discovery is the announcement on March 29 that CLST intends to terminate public trading of CLST stock in June" [Dkt. #89 at 4 (emphasis added)]. It is thus critical that the record be corrected on this issue.

CONCLUSION

For these reasons, Tornek respectfully requests leave to file the attached sur-reply and appendix, as well as all other relief that is just and proper.

Respectfully submitted,

/s/ Michael A. Swartzendruber

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CERTIFICATE OF CONFERENCE

I hereby certify that on the 27th day of April, 2010, I contacted counsel for Red Oak and inquired whether Red Oak would consent to or oppose Tornek's request for leave to file a sur-reply. Counsel for Red Oak advised me that Red Oak was opposed to Tornek's request.

/s/ Michael A. Swartzendruber

Michael A. Swartzendruber

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of April, 2010, I electronically filed the foregoing document with the Clerk of the Court for the United States District Court, Northern District of Texas, using the electronic case filing system of the Court. The electronic case filing system sent a “Notice of Electronic Filing” to all other counsel who have appeared in this action.

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